

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In Re:

Bankruptcy 04-34411

James F. & Deborah S. Johnson,

Debtors.

**NOTICE OF MOTION AND MOTION
TO EXTEND TIME TO OBJECT TO
EXEMPTIONS**

TO: The above-named debtors and their attorney, Robert J. Everhart.

Michael J. Iannacone, Trustee of the above-named debtors' bankruptcy estate,

respectfully moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this motion at 10:00 a.m., on October 25, 2004, in Courtroom 228A, United States Courthouse, 316 North Robert Street, St. Paul, Minnesota. Said motion will be based upon all the files and records herein in the attached Affidavit.
2. Any response to this motion must be filed and delivered not later than October 18, 2004, which is seven (7) days before the time set for the hearing (including Saturdays, Sundays, and holidays), or filed and served by mail not later than October 15, 2004, which is ten (10) days before the time set for the hearing (including Saturdays, Sundays and holidays).

**UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE
COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

3. This court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Bankruptcy Rule 5005 and Local Rule 1070-1. This proceeding is a core proceeding.

The petition commencing this Chapter 7 case was filed on July 30, 2004. The case is now pending in this Court.

4. This motion arises under 1 U.S.C. §§ 541, 542 and 727 and Fed.R.Bankr.P. 7005, 7007, 7055, 7056 and Local Rules 7007-1 and 7055-1. This motion is filed under Fed.R.Bank.P. 9013, 9014 and Local Rules 9013-1, 9013-2 and 9013-3 and Bankruptcy Rule 4003(b). Movant requests an Order for Default Judgment against Defendant to have Defendant's discharge in bankruptcy revoked.
5. Trustee requests an Order of the Court extending the time to object to exemptions for a period of 60 days to November 29, 2004 for the following reasons:
 - a. The Meeting of Creditors pursuant to 11 U.S.C. § 341 in the debtors' case was held on August 31, 2004;
 - b. At said hearing, the trustee requested that the debtors provide information concerning the following assets:
 - i. Copies of titles to two vehicles including the 1973 Chevrolet Chevelle and 1999 Chevrolet Silverado;
 - ii. Titles or certificates to 1999 26' Mallard travel trailer and 1999 18' Sea Ray speed boat, motor and trailer;
 - iii. Copies of bank statements for all accounts in which debtors held balances on the day they filed their petition in bankruptcy; and
 - iv. Copies of pay stubs for Deborah Johnson documenting the amounts earned prior to filing bankruptcy, which were paid to her thereafter.

- c. That the trustee confirmed the request in writing by sending a written request to Debtors' counsel requesting additional information on September 9, 2004. See Exhibit A attached hereto and incorporated herein;
- d. That the deadline for filing objections to the debtors' claim of exemption is September 30, 2004;
- e. As of the date of this motion, September 24, 2004, the trustee has received no response from Debtors or Debtors' counsel providing the information requested and the trustee cannot ascertain whether the items listed above have been properly claimed exempt.

WHEREFORE, Trustee requests an Order of the Court as follows:

- a. Extending the time to object to the debtors' claim of exemption until November 29, 2004;
- b. Ordering the debtors to provide to the trustee within 10 days of the date of the Order the information requested by the trustee in Exhibit A;
- c. Such other and further relief as the Court deems just and equitable in the premises.

Dated: September 24, 2004

____/e/ Michael J. Iannacone____
Michael J. Iannacone, #48719
Attorney for Trustee
8687 Eagle Point Blvd.
Lake Elmo, MN 55042
(651) 224-3361

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September 9, 2004

Robert J. Everhart, Esq.
Everhart Law Office Ltd.
708 Cleveland Ave. SW #101
P.O. Box 120534
New Brighton, MN 55112

Re: James & Deborah Johnson
Bankruptcy 04-34411

Dear Mr. Everhart:

Enclosed is a copy of a statement from Ramsey County Department of Property Records and Revenue documenting the value of the homestead owned by the above-named debtors at \$242,400.00. You listed the property as having a value of \$179,800.00, with a lien against it in the amount of \$166,648.00. Based on the value set in January of 2004, the debtors have the amount of \$75,352.00 in equity, which would require them to amend their claim to exemptions to state exemptions. We would ask that you amend their Schedule C immediately. Keep in mind that bank accounts, jewelry, cameras and boats cannot be claimed exempt pursuant to state law. Additionally, we would ask that you have the Johnsons provide copies of their titles to their two vehicles and also the trailers and boat for our review.

At the time that you amend their Schedule C, we would also ask that you have the Johnsons provide copies of bank statements for all accounts in which they had balances on the day they filed their petition in bankruptcy, along with any pay stubs for Mrs. Johnson documenting amounts earned prior to filing bankruptcy, which were paid to her thereafter.

We would expect to hear from you within 10 days of the date of this letter. After which, we will have to object to the debtors' claim to exempt property.

Very truly yours,

Heather L. Iannacone

HLI:knt
Enclosure

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In Re:

Bankruptcy 04-34411

James F. & Deborah S. Johnson,

UNSWORN CERTIFICATE
OF SERVICE

Debtors.

I, Krisann Treague, employed by Michael J. Iannacone, attorney licensed to practice law in this Court, with office address of 8687 Eagle Point Blvd., Lake Elmo, Minnesota, declare that on September 24, 2004, I mailed copies of Notice of Motion and Motion to Extend Time to Object to Exemptions and proposed Order to each entity named below at the address stated below for each entity by first class mail postage prepaid:

United States Trustee
1015 U.S. Courthouse
300 S. Fourth Street
Minneapolis, MN 55415

James F. Johnson
866 Burr Street
St. Paul, MN 55101

Deborah S. Johnson
866 Burr Street
St. Paul, MN 55101

Robert J. Everhart, Esq.
Everhart Law Office Ltd.
708 Cleveland Ave. SW #101
P.O. Box 120534
New Brighton, MN 55112

And, I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on: September 24, 2004

____/e/ Krisann Treague____

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

In Re:

Bankruptcy 04-34411

James F. & Deborah S. Johnson,

ORDER

Debtors.

At St. Paul, Minnesota.

It is hereby ordered as follows:

1. That the Motion of the trustee requesting an extension of the time to object to objections and directing the debtors to deliver information and documents to the trustee is **GRANTED**.
2. The deadline to object to exemptions claimed by the debtors is extended to November 29, 2004.
3. That the debtors are ordered to deliver to the trustee within 10 days of the date of this Order all information requested by the trustee in his letter to Robert J. Everhart dated September 9, 2004.

Dated this _____ day of _____, 2004.

Dennis D. O'Brien, Judge
United States Bankruptcy Court